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TROUBLE IN THE HOLY LAND

Terror defendant

getting off too easy?

Maverick Israeli attorney pushes for tougher charges against Barghouti

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By Steve K. Walz

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Dissatisfied with the "circus atmosphere" surrounding the meandering Tel Aviv trial of Fatah Tanzim leader Marwan Barghouti, Israeli attorney Nisana Darshan-Leitner has initiated a campaign to have Barghouti also indicted for "crimes against humanity."

Nisana Darshan-Leitner, along with her American-born husband, Avi Leitner, currently represent many American, British and Australian families who have been victimized by Palestinian terrorism. A substantial portion of the Leitners' clients, carry dual Israeli citizenship.

Darshan-Leitner, currently is on trial in the Tel-Aviv District Court, defending himself against 26 counts of murder against Israeli civilians, which his Tanzim organization allegedly carried out during the course of the current intifada.

Barghouti was arrested by Israeli security forces April 15, 2002, as part of the "Operation Defensive Shield" incursion into Palestinian Authority-controlled areas.

Darshan-Leitner, who also is director of the Shurat HaDin Israel Law Center, believes the indictment for the murders should be superseded by one that includes the crime of systematically targeting civilians. A conviction on a "crimes against humanity" charge would require automatic life imprisonment, with no opportunity for a pardon or parole.

Since the outbreak of the current intifada in October 2000, the Tanzim, which originally consisted of Palestinian police officers, transformed themselves into a full-scale terrorist organization. The group is closely affiliated with Palestinian Authority Chairman Yasser Arafat's Fatah branch of the Palestine Liberation Organization. Under Barghout's instructions, the group began a systematic campaign of drive-by shootings, sniper attacks and even suicide bombings, all aimed at Israeli civilians.

Eclipsing the violent attacks perpetrated by other Islamic terrorist groups, such as Hamas and Islamic Jihad, the Tanzim have been responsible for thousands of terrorist shootings and attacks.

While formally protesting his arrest and detention as "illegal" under international law, Barghout's lawyers have argued that the Palestinians have a legal right to resist their occupation against Israel by employing violent tactics. This, they allege, includes the right to kill Israeli civilians who live and travel inside the areas of the West Bank and Gaza.

However, Darshan-Leitner is fearful that despite the open-and-shut nature of the cases the prosecution has amassed against Barghout, a political deal could be negotiated that authorizes his release from prison. Prosecuting him for "crimes against humanity," would obstruct any future political deal.

There have been rumors that Barghout, who enjoys immense popularity among the Palestinian people, could be released as part of a deal concocted by the U.S., EU and Israel if and when Yasser Arafat is eventually exiled. A "rehabilitated" Barghout could hypothetically re-emerge as the "new" leader of the P.A., putting him on the front lines of final peace agreement between Israel and the Palestinians.

"My clients who lost family members and were injured by Barghout's terror attacks are very wary of the political pressure placed on the Israeli government to release the terrorist boss from prison," Darshan-Leitner claimed.

"We are demanding that the prosecution indict Barghout on crimes against humanity, charges he obviously is guilty of, and conduct a public trial of this mass conspiracy to murder Israeli civilians," she said. "A conviction of these charges will ensure that Barghout will remain in prison for the rest of his life and can never be pardoned in a future political deal. Moreover, a prosecution on this indictment will send a powerful message to the entire world, and especially the Europeans, concerning the real nature of the Palestinians' war against innocent civilians."

The Leitners are currently pressing 25 different cases against the P.A., Hamas, Syria, Iran, Iraq and the EU on behalf of the families of terror victims, in the U.S. and Israel.

In February 2002, the Leitners scored a huge legal victory against Iran when the U.S. District Court for the District of Columbia awarded \$33 million dollars in direct damages and \$150 million in punitive damages to Susan Weinstein, an American citizen whose husband, Ira, was killed in a 1996 Jerusalem suicide bombing. However, Weinstein has yet to see any compensation.

Darshan-Leitner, 29, has appeared on the covers of several Israeli magazines and has appeared on numerous radio and TV shows in the U.S. and

Israel. The Leimners are coming to the U.S. in mid-January to meet with influential politicians on Capitol Hill and prominent businessmen, looking to garner ongoing support for their legal strategies to combat international terrorism.

Steve K. Walz is an American journalist who moved to Israel from New York just prior to Sept. 11, 2001. He is currently a member of the Foreign Press Association and hosts a weekly newsmagazine program in English on Israeli radio.